IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

Bail Appl..No. 7235 of 2007()

CR.NO. 568/07 OF KANNUR TOWN POLICE STATION

PETITIONER

RAJASEKHARAN.K.
S/O.KUNHIKANNAN,'SREYAS'
PARIYARAM MEDICAL COLLEGE P.O.,
PARIYARAM, KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENTS: RESPONDENTS

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1. STATE-REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE
KANNUR TOWN POLICE STATION
(CRIME NO.568 OF 2007)
KANNUR DISTRICT.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 03/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 7235 of 2007

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Dated this the 3rd day of December, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations for offences punishable, inter alia, under Section 406 I.P.C. The crux of the allegations against the petitioner is that he, in his capacity as the Treasurer of the Kannur District Cherukida Bus Operators Association, misappropriated the funds of the association, which came into his hands and used it for purposes which were not legal or authorised. It is alleged that he had collected amounts from the members towards repayment of the loan availed in the name of the members, but the amounts were not paid into that account and were used for expenses of a Trust. There is a further allegation that service charge of Rs. 5.5 lakhs collected from the members were not brought into the accounts of the association and were used by the petitioner for his personal purposes. There is yet another allegation that eventhough the

petitioner was given opportunity to undo the mischief and make amends for his conduct, he did not avail of that opportunity also. Crime has been registered on the basis of the complaint made to the Superintendent of Police by the present office bearers of the association. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Allegations are being raised vexatiously against him on account of a rift between the members of the association. It is not a case where the petitioner had misappropriated the amounts. The amounts collected were used for the purposes in connection with the activities of the association. In these circumstances it is prayed that the petitioner may be granted anticipatory bail.

3. Heard the learned counsel for the petitioner and the learned Prosecutor. The case diary has been placed before me for my perusal. The definite case of the petitioner appears to be that the amounts had come into his hands. It had not been used for the purposes for which it

was earmarked, but it was used for other purposes which had nexus with the activities of the association.

4. I shall carefully avoid any detailed discussion on merit about the acceptability of the allegations raised or the credibility of the data collected. Suffice it to say that at the moment and with the available inputs I am unable to accept the contentions raised by the learned counsel for the petitioner. I am satisfied that there are no features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. This, I agree with the learned Prosecutor, is a fit case where the petitioner must surrender before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course. The petitioner shall be entitled to urge all his contentions before the learned Magistrate when the application for regular bail is considered by the learned Magistrate. He shall be at liberty to produce all the documents before the learned Magistrate in support of his contentions.

5. This application is dismissed with the above observations.

(R. BASANT)
Judge

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